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HOPE

*COUNSEL CONTINUED ON NEXT PAGE*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

GENENTECH, INC. and CITY OF  
HOPE,

Plaintiffs,

v.

GLAXO GROUP LIMITED,  
GLAXOSMITHKLINE LLC, and  
HUMAN GENOME SCIENCES, INC.,

Defendants.

Case No. 11-CV-03065 MRP (JEMx)

~~PROPOSED~~ **STIPULATED  
PROTECTIVE ORDER**

Judge: Hon. Mariana R. Pfaelzer  
Ct. No.: 12

1 HUMAN GENOME SCIENCES, INC.,

2 Plaintiff,

3 v.

4 GENENTECH, INC. and CITY OF  
5 HOPE,

6 Defendants.

Case No. 11-CV-06519 MRP (JEMx)

7 HUMAN GENOME SCIENCES, INC.,

8 Plaintiff,

9 v.

10 GENENTECH, INC., and CITY OF  
11 HOPE,

12 Defendants.

Case No. 11-CV-06594 MRP (JEMx)

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14 BARTLETT LLP**

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LIMITED and  
GLAXOSMITHKLINE LLC

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

1 The Court recognizes that at least some of the documents and  
2 information ("materials") being sought through discovery in the above-captioned  
3 actions ("Actions") are not publicly available and, for competitive reasons,  
4 normally kept confidential by the parties. The parties have agreed to be bound by  
5 the terms of this Protective Order ("Order") in these actions.

6 The materials to be exchanged throughout the course of the litigation  
7 between the parties may contain trade secret or other confidential research,  
8 technical, cost, price, marketing or other commercial information, as is contemplated  
9 by Federal Rule of Civil Procedure 26(c)(1)(G). The purpose of this Order is to  
10 protect the confidentiality of such materials as much as practical during the  
11 litigation. THEREFORE:

#### 12 DEFINITIONS

13 1. The term "Confidential Information" shall mean and include  
14 information contained or disclosed in any materials, including documents, portions  
15 of documents, answers to interrogatories, responses to requests for admissions,  
16 deposition testimony, and transcripts of depositions, including data, summaries, and  
17 compilations derived therefrom that is deemed to be Confidential or Highly  
18 Confidential by any party or non-party to which it belongs. For the avoidance of  
19 doubt, the Confidential and Highly Confidential information of a non-party  
20 produced in these Actions shall be afforded the same degree of protection from  
21 disclosure as the Confidential and Highly Confidential information of the parties to  
22 these Actions. Each party or non-party shall act in good faith, showing good cause,  
23 in designating such information as Confidential or Highly Confidential.

24 2. The term "materials" shall include, but shall not be limited to:  
25 documents; correspondence; memoranda; bulletins; blueprints; protocols; data  
26 compilations; patent applications; specifications; customer lists or other materials  
27 that identify customers or potential customers; price lists or schedules or other  
28 matter identifying pricing; minutes; telegrams; letters; statements; cancelled checks;

1 contracts; invoices; drafts; books of account; worksheets; notes of conversations;  
2 desk diaries; appointment books; expense accounts; recordings; photographs;  
3 motion pictures; compilations from which information can be obtained and  
4 translated into reasonably usable form through detection devices; sketches;  
5 drawings; notes (including laboratory notebooks and records); reports; instructions;  
6 disclosures; other writings; presentations; business practices; models and prototypes  
7 and other physical objects.

8 3. The term "counsel" shall mean outside counsel of record, and other  
9 attorneys, paralegals, secretaries, and other support staff employed by the law firms  
10 identified below or other persons hired or used by these firms for purpose of the  
11 preparation and trial of these Actions, such as discovery vendors, mock jurors, and  
12 trial and jury consultants:

13 Paul, Weiss, Rifkind, Wharton & Garrison LLP and Durie Tangri LLP,  
14 counsel for Genentech, Inc. and City of Hope;

15 Mayer Brown LLP, counsel for GlaxoSmithKline LLC and Glaxo  
16 Group Limited; and

17 Simpson Thacher & Bartlett LLP, counsel for Human Genome  
18 Sciences, Inc.

19 "Counsel" also includes in-house litigation team members as follows:

20 Gregory Schetina and an attorney to-be-designated at a later date, in-  
21 house attorneys for City of Hope, and their associated paralegals, secretaries, and  
22 other support staff;

23 Laura Storto, Jeffrey Butler, in-house attorneys, and up to one  
24 additional in-house attorney to be identified at a later date for Genentech, Inc. and  
25 their associated paralegals, secretaries, and other support staff;

26 Charles Kinzig, Mark Rachlin, in-house attorneys, and up to one  
27 additional in-house attorney to be identified at a later date for  
28

1 GlaxoSmithKline LLC and Glaxo Group Limited and their associated paralegals,  
2 secretaries, and other support staff; and

3 Up to three in-house attorneys to be identified at a later date for  
4 Human Genome Sciences, Inc. and their associated paralegals, secretaries, and  
5 other support staff.

6 Notwithstanding the foregoing, during the pendency of these Actions  
7 and for two (2) years following the exhaustion of all appeals thereof, the above-  
8 identified in-house litigation team members shall not be involved in any of the  
9 following activities:

- 10 (a) competitive business decisions regarding the pricing or  
11 marketing of present or future anti-BLyS antibody products (this  
12 category does not include supervising litigation regarding the  
13 same); or  
14 (b) preparation, prosecution, or appeal in the prosecution of any  
15 foreign or domestic patent application related to methods of  
16 manufacturing, purifying, or formulating monoclonal antibodies  
17 (other than involvement in any reexamination, opposition, or  
18 similar post-issuance proceedings (but not a reissue examination  
19 within the first two years following any patent's issue date)  
20 concerning U.S. Patent No. 6,331,415, U.S. Patent  
21 No. 7,923,221, and their related patents and patent applications)  
22 (the "Patent Prosecution Activities").

23 To clarify the meaning of "involved" as used in this Paragraph 3, no  
24 party will contend that the in-house counsel designated under this Paragraph 3 are  
25 "involved" in the Patent Prosecution Activities by virtue of their having formal  
26 supervisory responsibility over other in-house counsel or patent agents involved in  
27 the Patent Prosecution Activities, unless the in-house counsel designated under this  
28 Paragraph 3 in fact exercise that responsibility to direct the preparation or

1 prosecution of specific patent applications relating to the Patent Prosecution  
2 Activities. Furthermore, no party will contend that in-house counsel is "involved"  
3 in competitive business decisions by virtue of receiving reports or attending  
4 executive management meetings.

5 The parties may, as necessary, substitute on a one-for-one basis other  
6 in-house litigation team members meeting the above criteria for the above-listed  
7 individuals, provided that the substituting party give the other parties seven (7)  
8 business days notice prior to said substitution.

#### 9 GENERAL RULES

10 4. Each party, including non-parties, that produces or discloses any  
11 materials, answers to interrogatories, responses to requests for admission, trial  
12 testimony, deposition testimony, and transcripts of trial testimony and depositions,  
13 or information that the producing party believes should be subject to this Protective  
14 Order may designate the same as "CONFIDENTIAL" or "HIGHLY  
15 CONFIDENTIAL."

- 16 a. Designation as "CONFIDENTIAL": Any party, including non-  
17 parties, may designate information as "CONFIDENTIAL" only  
18 if, in the good faith belief of such party or non-party and its  
19 counsel, the unrestricted disclosure of such information could be  
20 potentially harmful to the business or operations of such party.
- 21 b. Designation as "HIGHLY CONFIDENTIAL": Any party or  
22 non-party may designate information as "HIGHLY  
23 CONFIDENTIAL" only if, in the good faith belief of such party  
24 or non-party and its counsel, the information is among that  
25 considered to be most sensitive by the party, including but not  
26 limited to trade secrets or other highly sensitive research,  
27 development, financial, strategic, or other commercial  
28

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)



1 information, the unrestricted disclosure of which could be  
2 potentially harmful to the business or operations of such party.

3 5. In the event the producing party elects to produce materials for  
4 inspection, no marking need be made by the producing party in advance of the  
5 initial inspection. For purposes of the initial inspection, all materials produced shall  
6 be considered as "HIGHLY CONFIDENTIAL," and shall be treated as such  
7 pursuant to the terms of this Order. Thereafter, upon selection of specified  
8 materials for copying by the inspecting party, the producing party shall, within a  
9 reasonable time prior to producing those materials to the inspecting party, mark the  
10 copies of those materials that contain Confidential Information with the appropriate  
11 confidentiality marking.

12 6. Whenever a deposition taken on behalf of any party involves a  
13 disclosure of Confidential Information of any party:

14 a. said deposition or portions thereof shall be designated as  
15 containing Confidential Information subject to the provisions of  
16 this Order; such designation shall be made on the record  
17 whenever possible, but a party may designate portions of  
18 depositions as containing Confidential Information after  
19 transcription of the proceedings; a party shall have until twenty  
20 (20) days after receipt of the deposition transcript to inform the  
21 other party or parties to these Actions of the portions of the  
22 transcript designated "CONFIDENTIAL" or "HIGHLY  
23 CONFIDENTIAL;"

24 b. the producing party shall have the right to exclude from  
25 attendance at said deposition, during such time as the  
26 Confidential Information is to be disclosed, any person other  
27 than the deponent, counsel (including their staff and associates),  
28

1 the court reporter, and the person(s) agreed upon pursuant to  
2 Paragraph 8 below; and

3 c. the originals of said deposition transcripts and all copies thereof  
4 shall bear the legend "CONFIDENTIAL" or "HIGHLY  
5 CONFIDENTIAL" as appropriate, and the original or any copy  
6 ultimately presented to a court for filing shall not be filed unless  
7 it can be accomplished under seal, identified as being subject to  
8 this Order, and protected from being opened except by order of  
9 this Court.

10 7. All Confidential Information designated as "CONFIDENTIAL" or  
11 "HIGHLY CONFIDENTIAL" shall not be disclosed by the receiving party to  
12 anyone other than those persons designated herein and shall be handled in the  
13 manner set forth below and, in any event, shall not be used for any purpose other  
14 than in connection with these Actions, unless and until such designation is removed  
15 either by agreement of the parties, or by order of the Court.

16 8. Information designated "HIGHLY CONFIDENTIAL" shall be viewed  
17 only by Counsel (as defined in Paragraph 3) of the receiving party, and by  
18 independent experts under the conditions set forth in this Paragraph. The right of  
19 any independent expert to receive any Confidential Information shall be subject to  
20 the advance approval of such expert by the producing party or by permission of the  
21 Court. The party seeking approval of an independent expert shall provide the  
22 producing party with the name and curriculum vitae of the proposed independent  
23 expert, and an executed copy of the form attached hereto as Exhibit A, in advance  
24 of providing any Confidential Information of the producing party to the expert.  
25 Any objection by the producing party to an independent expert receiving  
26 Confidential Information must be made in writing within ten (10) days following  
27 receipt of the identification of the proposed expert. Confidential Information may  
28 be disclosed to an independent expert if the ten (10) day period has passed and no

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)



1 objection has been made. The approval of independent experts shall not be  
2 unreasonably withheld.

3 9. Information designated "CONFIDENTIAL" shall be viewed only by  
4 Counsel (as defined in Paragraph 3) of the receiving party, by independent experts  
5 (pursuant to the terms of Paragraph 8), up to two attorneys to-be-designated at a  
6 later date for Genentech, Inc., up to two attorneys to-be-designated at a later date  
7 for City of Hope, William Han and Andrea Lockenour for GlaxoSmithKline and  
8 Glaxo Group Limited, up to two attorneys to-be-designated at a later date for  
9 Human Genome Sciences, Inc., and by the additional individuals listed below,  
10 provided each such individual has read this Order in advance of disclosure and has  
11 agreed in writing to be bound by its terms:

- 12 a. Executives who are required to participate in policy decisions  
13 with reference to these actions;  
14 b. Technical personnel of the parties with whom Counsel for the  
15 parties find it necessary to consult, in the discretion of such  
16 Counsel, in preparation for trial of these actions; and  
17 c. Stenographic and clerical employees associated with the  
18 individuals identified above.

19 10. With respect to material designated "CONFIDENTIAL" or "HIGHLY  
20 CONFIDENTIAL" any person indicated on the face of the document to be its  
21 originator, author or a recipient of a copy thereof, may be shown the same.

22 11. A document that contains or reveals Confidential Information may be  
23 copied by an independent commercial copying service, and an exhibit based upon  
24 such a document may be prepared by an independent printer or illustrator.

25 12. Confidential Information may be disclosed to official court personnel,  
26 stenographic reporters, videographers and their respective assistants who are  
27 engaged in such proceedings as are necessary for the preparation and trial of these  
28 Actions.

1           13. All information which has been designated as "CONFIDENTIAL" or  
2 "HIGHLY CONFIDENTIAL" by the producing party, and any and all  
3 reproductions thereof, shall be retained in the custody of the counsel for the  
4 receiving party identified in Paragraph 3, except that independent experts  
5 authorized to view such information under the terms of this Order may retain  
6 custody of copies such as are necessary for their participation in these Actions.

7           14. Before any materials produced in discovery, answers to  
8 interrogatories, responses to requests for admissions, deposition transcripts, or other  
9 documents which are designated as Confidential Information are filed with the  
10 Court for any purpose, the party seeking to file such material shall seek permission  
11 of the Court to file said material under seal. The parties will follow and abide by  
12 applicable law, including relevant local rules, with respect to filing documents  
13 under seal in this Court.

14           15. Any party may reasonably request, in writing, that a party filing or  
15 serving a paper in these actions, such as an expert report, dispositive motion,  
16 discovery motion, or similar paper, that is marked as CONFIDENTIAL and/or  
17 HIGHLY CONFIDENTIAL shall produce to the other side a redacted copy of such  
18 paper, removing the Confidential Information, for use solely for the purposes of  
19 these litigations. Such redacted copy shall be provided within five (5) calendar  
20 days of such request or otherwise at a date agreed upon by the parties.

21           16. At any stage of these proceedings, any party may object to a  
22 designation of specific materials as Confidential Information. The party objecting  
23 to confidentiality shall notify, in writing, counsel for the designating party of the  
24 objected-to materials and the grounds for the objection. In accordance with  
25 L.R. 37-1, the parties shall meet and confer in an attempt to resolve their dispute  
26 without involving the Court. If the parties are unable to resolve their dispute on  
27 their own, they may seek the Court's involvement pursuant to L.R. 37-2. The  
28 materials at issue shall be treated as Confidential Information, as designated by the

1 designating party, until the Court has ruled on the matter or the matter has been  
2 otherwise resolved.

3 17. All Confidential Information shall be held in confidence by those  
4 inspecting or receiving it, and shall be used only for purposes of these Actions.  
5 Counsel for each party, and each person receiving Confidential Information shall  
6 take reasonable precautions to prevent the unauthorized or inadvertent disclosure of  
7 such information. If Confidential Information is disclosed to any person other than  
8 a person authorized by this Order, the party responsible for the unauthorized  
9 disclosure must immediately bring all pertinent facts relating to the unauthorized  
10 disclosure to the attention of the other parties and, without prejudice to any rights  
11 and remedies of the other parties, make every effort to prevent further disclosure by  
12 the party and by the person(s) receiving the unauthorized disclosure.

13 18. No party shall be responsible to another party for disclosure of  
14 Confidential Information under this Order if the information in question is not  
15 labeled or otherwise identified as such in accordance with this Order.

16 19. If a party, through inadvertence, produces any Confidential  
17 Information without labeling or marking or otherwise designating it as such in  
18 accordance with this Order, the designating party may give written notice to the  
19 receiving party that the document or thing produced is deemed Confidential  
20 Information, and that the document or thing produced should be treated as such in  
21 accordance with that designation under this Order. The receiving party must treat  
22 the materials as confidential, once the designating party so notifies the receiving  
23 party. If the receiving party has disclosed the materials before receiving the  
24 designation, the receiving party must notify the designating party in writing of each  
25 such disclosure. Counsel for the parties shall agree on a mutually acceptable  
26 manner of labeling or marking the inadvertently produced materials such as  
27 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."  
28

20. Nothing herein shall prejudice the right of any party to object to the production of any discovery material on the grounds that the material is protected as privileged or as attorney work product. An inadvertent production of any document that a producing party believes is immune from discovery pursuant to any attorney-client privilege, attorney work product immunity or any other privilege or immunity from production, shall not be deemed a waiver. The producing party may give written notice to all receiving parties that the document or information inadvertently produced is privileged or otherwise protected. Within ten (10) days of receipt of such written notice, all receiving parties shall immediately comply with Federal Rule of Civil Procedure 26(b)(5)(B) by returning or destroying the original and all copies of the information, making their best efforts to destroy those portions of summaries or notes pertaining to the information identified as privileged and taking reasonable steps to retrieve the information if the party disclosed it before being notified except, however, that a party seeking to challenge the claim of privilege or protection may retain a single copy of the disputed information solely for the purpose of making that challenge. If the Court denies the challenge, the party making the challenge has ten (10) days from receipt of the Order denying the challenge to comply with Federal Rule of Civil Procedure 26(b)(5)(B) by returning or destroying the copy of the disputed information retained for the purpose of making the challenge. If a receiving party wishes to challenge the claim of privilege or protection, no later than twenty (20) days from receiving the notice, it must initiate the process to move pursuant to Local Rule 37 to present the information, under seal, to the Court for a determination of the claim. The receiving party shall not rely upon the fact or circumstances of the production of the information in challenging the claim of privilege or protection. No person or party shall incur any liability hereunder for any disclosure or filing of inadvertently disclosed documents when the disclosure occurred before receipt of notice of the inadvertent disclosure.

1           21. Nothing in this Order shall bar counsel from rendering advice to their  
2 clients with respect to these Actions and, in the course thereof, relying upon any  
3 information designated as Confidential Information, provided that the contents of  
4 the information shall not be disclosed.

5           22. This Order shall be without prejudice to the right of any party to  
6 oppose production of any information for lack of relevance or any other ground  
7 other than the mere presence of Confidential Information. The existence of this  
8 Order shall not be used by either party as a basis for discovery that is otherwise not  
9 proper under the Federal Rules of Civil Procedure.

10           23. Nothing herein shall be construed to prevent disclosure of Confidential  
11 Information if such disclosure is required by law or by order of the Court.

12           24. Drafts of expert reports and notes or outlines for draft reports shall not  
13 be discoverable by any party and do not need to be identified on a privilege log.  
14 Communications between experts and counsel relating to the preparation of expert  
15 reports shall not be discoverable and do not need to be identified on a privilege log,  
16 except that any facts and/or documents provided to an expert, whether from counsel  
17 or any other source, and the source of those documents and/or information are  
18 discoverable. The materials, communications and other information exempt from  
19 discovery under the foregoing sentences shall be treated as protected by the  
20 attorney-client privilege and/or attorney work product doctrine.

21           25. Upon final termination of these Actions, including any and all appeals,  
22 counsel for each party shall, upon request of the producing party, return all  
23 Confidential Information (regardless of its format) to the party that produced the  
24 information, including any copies, excerpts, and summaries thereof, or shall destroy  
25 same at the option of the receiving party, and shall purge all such information from  
26 all machine-readable media on which it resides. Within sixty (60) days of the  
27 termination of these Actions, the receiving party shall certify in writing to the  
28 producing party that all confidential information, regardless of format or location,



1 has been destroyed. Notwithstanding the foregoing, counsel for each party may  
2 retain all pleadings, briefs, memoranda, motions, and other documents filed with  
3 the Court that refer to or incorporate Confidential Information, and will continue to  
4 be bound by this Order with respect to all such retained information. Further,  
5 attorney work product materials that contain Confidential Information need not be  
6 destroyed, but, if they are not destroyed, the person in possession of the attorney  
7 work product will continue to be bound by this Order with respect to all such  
8 retained information.

9 26. The restrictions and obligations set forth herein shall not apply to any  
10 information that: (a) the parties agree should not be designated Confidential  
11 Information; (b) the parties agree, or the Court rules, is already public knowledge;  
12 (c) the parties agree, or the Court rules, has become public knowledge other than as  
13 a result of disclosure by the receiving party, its employees, or its agents in violation  
14 of this Order; or (d) has come or shall come into the receiving party's legitimate  
15 knowledge independently of the production by the designating party. Prior  
16 knowledge must be established by pre-production documentation.

17 27. The restrictions and obligations herein shall not be deemed to prohibit  
18 discussions of any Confidential Information with anyone if that person already has  
19 or obtains legitimate possession thereof.

20 28. Confidential Information disclosed pursuant to this Order shall be used  
21 by a receiving party solely for the purposes of these Actions. Confidential  
22 Information disclosed pursuant to this Order shall not be used for any business or  
23 competitive purposes. It shall be the duty of each party and each individual having  
24 notice of this Order to comply with its terms from the time of such notice.

25 29. In the event that counsel for a party deems it necessary to disclose any  
26 Confidential Information to any person not contemplated in the preceding  
27 Paragraphs, said counsel shall make a request to counsel for the producing party in  
28 writing or on the record in a deposition or proceeding before the Court of the



1 Confidential Information sought to be disclosed, and shall attempt to reach  
2 agreement regarding such disclosure. Nothing in this Order shall prevent disclosure  
3 of such Confidential Information if the producing party consents, or if the Court,  
4 after notice to all parties, orders such disclosure. If agreement cannot be reached,  
5 the party seeking to make the disclosure shall move the Court, pursuant to Local  
6 Rule 37, to rule as to whether such disclosure may be made and whether any  
7 restrictions or limitations should be placed on such disclosure. No disclosure shall  
8 be made until such motion is decided in favor of the movant.

9 30. In the event that a new party is added, substituted or brought in, this  
10 Order will be binding on and inure to the benefit of the new party, subject to the  
11 right of the new party to seek relief from or modification of this Order.

12 31. Non-parties who produce information in these Actions may avail  
13 themselves of the provisions of this Order by agreeing to be bound by its terms.

14 32. In the event that a producing party's Confidential Information is  
15 sought from a receiving party by any person not a party to any of these Actions, by  
16 subpoena, by service with any legal process, by order or otherwise, prompt written  
17 notice shall be given to the party who produced the Confidential Information. Such  
18 notice shall include a copy of such subpoena, legal process or order. The producing  
19 party shall have ten (10) days from receipt of notice to object. Nothing in this  
20 Order shall be construed as authorizing a party to disobey a lawful subpoena issued  
21 in another action. Nothing in this Order shall be construed as requiring anyone  
22 covered by this Order to contest a subpoena or other process, to appeal any order  
23 requiring production of Confidential Information covered by this Order or to  
24 subject itself to penalties for non-compliance with any subpoena, legal process or  
25 order. Any persons seeking such Confidential Information who take action to  
26 enforce such subpoena or other legal process shall be apprised of this Order.

27 33. Transmission by facsimile and/or e-mail is acceptable for all  
28 notification purposes herein.

1        34. This Order may be modified by agreement of the parties, subject to  
2 approval by the Court.

3                The Court may modify the terms and conditions of this Order for good  
4 cause, or in the interest of justice, or on its own order at any time in these  
5 proceedings. The parties prefer that the Court provide them with notice of the  
6 Court's intent to modify this Order and the content of those modifications, prior to  
7 entry of such an order.

8  
9 DATED: May 15, 2012

**DURIE TANGRI LLP**

10  
11 By: /s/ Daralyn J. Durie  
12 Daralyn J. Durie

13 **PAUL, WEISS, RIFKIND, WHARTON**  
14 **& GARRISON LLP**

15 By: /s/ Kenneth A. Gallo  
16 Kenneth A. Gallo

17 Attorneys for GENENTECH, INC. and  
18 CITY OF HOPE

19 **MAYER BROWN LLP**

20 By: /s/ Lisa M. Ferri  
21 Lisa M. Ferri

22 Attorneys for GLAXO GROUP LIMITED  
23 and GLAXOSMITHKLINE LLC

24 **SIMPSON THACHER & BARTLETT**  
25 **LLP**

26 By: /s/ Henry B. Gutman  
27 Henry B. Gutman

Attorneys for HUMAN GENOME  
SCIENCES, INC.

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[PROPOSED] STIPULATED PROTECTIVE ORDER  
Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

**EXHIBIT A**

1 **DURIE TANGRI LLP**  
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16 *COUNSEL CONTINUED ON NEXT PAGE*

17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA**  
19 **WESTERN DIVISION**  
20

21 GENENTECH, INC. and CITY OF  
22 HOPE,

23 Plaintiffs,

24 v.

25 GLAXO GROUP LIMITED,  
26 GLAXOSMITHKLINE LLC, and  
HUMAN GENOME SCIENCES, INC.,

27 Defendants.  
28

Case No. 11-CV-03065 MRP (JEMx)

**"EXHIBIT A" TO STIPULATED  
PROTECTIVE ORDER;**

**AGREEMENT TO BE BOUND BY  
PROTECTIVE ORDER**

Judge: Hon. Mariana R. Pfaelzer  
Ctrm: 12

1 HUMAN GENOME SCIENCES, INC.,

2 Plaintiff,

3 v.

4 GENENTECH, INC. and CITY OF  
5 HOPE,

6 Defendants.

Case No. 11-CV-06519 MRP (JEMx)

7 HUMAN GENOME SCIENCES, INC.,

8 Plaintiff,

9 v.

10 GENENTECH, INC., and CITY OF  
11 HOPE,

12 Defendants.

Case No. 11-CV-06594 MRP (JEMx)

13 **SIMPSON THACHER &  
14 BARTLETT LLP**

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LIMITED and  
GLAXOSMITHKLINE LLC

AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)



1 I, \_\_\_\_\_, declare and say that:

2 1. I am employed as

3 \_\_\_\_\_ by

4 \_\_\_\_\_

5 \_\_\_\_\_

6 2. I have read the Protective Order entered in the above-captioned matters and

7 have received a copy of the Protective Order.

8 3. I promise that I will use any and all "CONFIDENTIAL" or "HIGHLY

9 CONFIDENTIAL" information, as defined in the Protective Order, given to

10 me only in a manner authorized by the Protective Order, and only to assist

11 counsel in the litigation of these matters.

12 4. I promise that I will not disclose or discuss such "CONFIDENTIAL" or

13 "HIGHLY CONFIDENTIAL" information with anyone other than the

14 persons described in Paragraphs 3, 8 and 9 of the Protective Order.

15 5. I acknowledge that, by signing this agreement, I am subjecting myself to the

16 jurisdiction of the United States District Court for the Central District of

17 California with respect to enforcement of the Protective Order.

18 6. I understand that any disclosure or use of "CONFIDENTIAL" or "HIGHLY

19 CONFIDENTIAL" information in any manner contrary to the provisions of

20 the Protective Order may subject me to sanctions for contempt of court.

21

22 I declare under penalty of perjury that the foregoing is true and correct.

23 Date: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I certify that all counsel of record is being served on May 15, 2012 with a copy of this document via the Court's CM/ECF system.

/s/ Daralyn J. Durie  
DARALYN J. DURIE

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15 HOPE

16 *COUNSEL CONTINUED ON NEXT PAGE*

17  
18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**  
20 **WESTERN DIVISION**

22 GENENTECH, INC. and CITY OF  
23 HOPE,

24 Plaintiffs,

25 v.

26 GLAXO GROUP LIMITED,  
27 GLAXOSMITHKLINE LLC, and  
28 HUMAN GENOME SCIENCES, INC.,

Defendants.

Case No. 11-CV-03065 MRP (JEMx)

**[PROPOSED] ORDER ON  
STIPULATED PROTECTIVE  
ORDER**

Judge: Hon. Mariana R. Pfaelzer  
Ctm: 12

1 HUMAN GENOME SCIENCES, INC.,

2 Plaintiff,

3 v.

4 GENENTECH, INC. and CITY OF  
5 HOPE,

6 Defendants.

Case No. 11-CV-06519 MRP (JEMx)

7 HUMAN GENOME SCIENCES, INC.,

8 Plaintiff,

9 v.

10 GENENTECH, INC., and CITY OF  
11 HOPE,

12 Defendants.

Case No. 11-CV-06594 MRP (JEMx)

13 **SIMPSON THACHER &  
14 BARTLETT LLP**

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LIMITED and  
GLAXOSMITHKLINE LLC

**ORDER**

The parties having entered into a Stipulated Protective Order providing the terms and conditions for the confidentiality of all information, documents and other items subject to discovery in this action, a copy of which is attached hereto as Exhibit A, and for GOOD CASE SHOWN,  
IT IS SO ORDERED this 17 day of May, 2012.

  
Honorable Mariana R. Pfaelzer  
United States District Court Judge

**CERTIFICATE OF SERVICE**

I certify that all counsel of record is being served on May 15, 2012 with a  
copy of this document via the Court's CM/ECF system.

/s/ Daralyn J. Durie  
DARALYN J. DURIE



## **EXHIBIT A**

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16 *COUNSEL CONTINUED ON NEXT PAGE*

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18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**  
20 **WESTERN DIVISION**

22 GENENTECH, INC. and CITY OF  
23 HOPE,

24 Plaintiffs,

25 v.

26 GLAXO GROUP LIMITED,  
27 GLAXOSMITHKLINE LLC, and  
HUMAN GENOME SCIENCES, INC.,

28 Defendants.

Case No. 11-CV-03065 MRP (JEMx)

**[PROPOSED] STIPULATED  
PROTECTIVE ORDER**

Judge: Hon. Mariana R. Pfaelzer  
Ctvm: 12

HUMAN GENOME SCIENCES, INC.,

Plaintiff,

v.

GENENTECH, INC. and CITY OF  
HOPE,

Defendants.

Case No. 11-CV-06519 MRP (JEMx)

HUMAN GENOME SCIENCES, INC.,

Plaintiff,

v.

GENENTECH, INC., and CITY OF  
HOPE,

Defendants.

Case No. 11-CV-06594 MRP (JEMx)

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[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

The materials to be exchanged throughout the course of the litigation between the parties may contain trade secret or other confidential research, technical, cost, price, marketing or other commercial information, as is contemplated by Federal Rule of Civil Procedure 26(c)(1)(G). The purpose of this Order is to protect the confidentiality of such materials as much as practical during the litigation. THEREFORE:

1. The term "Confidential Information" shall mean and include information contained or disclosed in any materials, including documents, portions of documents, answers to interrogatories, responses to requests for admissions, deposition testimony, and transcripts of depositions, including data, summaries, and compilations derived therefrom that is deemed to be Confidential or Highly Confidential by any party or non-party to which it belongs. For the avoidance of doubt, the Confidential and Highly Confidential information of a non-party produced in these Actions shall be afforded the same degree of protection from disclosure as the Confidential and Highly Confidential information of the parties to these Actions. Each party or non-party shall act in good faith, showing good cause, in designating such information as Confidential or Highly Confidential.

2. The term "materials" shall include, but shall not be limited to: documents; correspondence; memoranda; bulletins; blueprints; protocols; data compilations; patent applications; specifications; customer lists or other materials that identify customers or potential customers; price lists or schedules or other matter identifying pricing; minutes; telegrams; letters; statements; cancelled checks;

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1 contracts; invoices; drafts; books of account; worksheets; notes of conversations;  
2 desk diaries; appointment books; expense accounts; recordings; photographs;  
3 motion pictures; compilations from which information can be obtained and  
4 translated into reasonably usable form through detection devices; sketches;  
5 drawings; notes (including laboratory notebooks and records); reports; instructions;  
6 disclosures; other writings; presentations; business practices; models and prototypes  
7 and other physical objects.

8 3. The term "counsel" shall mean outside counsel of record, and other  
9 attorneys, paralegals, secretaries, and other support staff employed by the law firms  
10 identified below or other persons hired or used by these firms for purpose of the  
11 preparation and trial of these Actions, such as discovery vendors, mock jurors, and  
12 trial and jury consultants:

13 Paul, Weiss, Rifkind, Wharton & Garrison LLP and Durie Tangri LLP,  
14 counsel for Genentech, Inc. and City of Hope;

15 Mayer Brown LLP, counsel for GlaxoSmithKline LLC and Glaxo  
16 Group Limited; and

17 Simpson Thacher & Bartlett LLP, counsel for Human Genome  
18 Sciences, Inc.

19 "Counsel" also includes in-house litigation team members as follows:

20 Gregory Schetina and an attorney to-be-designated at a later date, in-  
21 house attorneys for City of Hope, and their associated paralegals, secretaries, and  
22 other support staff;

23 Laura Storto, Jeffrey Butler, in-house attorneys, and up to one  
24 additional in-house attorney to be identified at a later date for Genentech, Inc. and  
25 their associated paralegals, secretaries, and other support staff;

26 Charles Kinzig, Mark Rachlin, in-house attorneys, and up to one  
27 additional in-house attorney to be identified at a later date for  
28

1 GlaxoSmithKline LLC and Glaxo Group Limited and their associated paralegals,  
2 secretaries, and other support staff; and

3 Up to three in-house attorneys to be identified at a later date for  
4 Human Genome Sciences, Inc. and their associated paralegals, secretaries, and  
5 other support staff.

6 Notwithstanding the foregoing, during the pendency of these Actions  
7 and for two (2) years following the exhaustion of all appeals thereof, the above-  
8 identified in-house litigation team members shall not be involved in any of the  
9 following activities:

- 10 (a) competitive business decisions regarding the pricing or  
11 marketing of present or future anti-BLyS antibody products (this  
12 category does not include supervising litigation regarding the  
13 same); or  
14 (b) preparation, prosecution, or appeal in the prosecution of any  
15 foreign or domestic patent application related to methods of  
16 manufacturing, purifying, or formulating monoclonal antibodies  
17 (other than involvement in any reexamination, opposition, or  
18 similar post-issuance proceedings (but not a reissue examination  
19 within the first two years following any patent's issue date)  
20 concerning U.S. Patent No. 6,331,415, U.S. Patent  
21 No. 7,923,221, and their related patents and patent applications)  
22 (the "Patent Prosecution Activities").

23 To clarify the meaning of "involved" as used in this Paragraph 3, no  
24 party will contend that the in-house counsel designated under this Paragraph 3 are  
25 "involved" in the Patent Prosecution Activities by virtue of their having formal  
26 supervisory responsibility over other in-house counsel or patent agents involved in  
27 the Patent Prosecution Activities, unless the in-house counsel designated under this  
28 Paragraph 3 in fact exercise that responsibility to direct the preparation or



1 prosecution of specific patent applications relating to the Patent Prosecution  
2 Activities. Furthermore, no party will contend that in-house counsel is "involved"  
3 in competitive business decisions by virtue of receiving reports or attending  
4 executive management meetings.

5 The parties may, as necessary, substitute on a one-for-one basis other  
6 in-house litigation team members meeting the above criteria for the above-listed  
7 individuals, provided that the substituting party give the other parties seven (7)  
8 business days notice prior to said substitution.

9  
**GENERAL RULES**

10 4. Each party, including non-parties, that produces or discloses any  
11 materials, answers to interrogatories, responses to requests for admission, trial  
12 testimony, deposition testimony, and transcripts of trial testimony and depositions,  
13 or information that the producing party believes should be subject to this Protective  
14 Order may designate the same as "CONFIDENTIAL" or "HIGHLY  
15 CONFIDENTIAL."

- 16 a. Designation as "CONFIDENTIAL": Any party, including non-  
17 parties, may designate information as "CONFIDENTIAL" only  
18 if, in the good faith belief of such party or non-party and its  
19 counsel, the unrestricted disclosure of such information could be  
20 potentially harmful to the business or operations of such party.
- 21 b. Designation as "HIGHLY CONFIDENTIAL": Any party or  
22 non-party may designate information as "HIGHLY  
23 CONFIDENTIAL" only if, in the good faith belief of such party  
24 or non-party and its counsel, the information is among that  
25 considered to be most sensitive by the party, including but not  
26 limited to trade secrets or other highly sensitive research,  
27 development, financial, strategic, or other commercial  
28

1 information, the unrestricted disclosure of which could be  
2 potentially harmful to the business or operations of such party.

3 5. In the event the producing party elects to produce materials for  
4 inspection, no marking need be made by the producing party in advance of the  
5 initial inspection. For purposes of the initial inspection, all materials produced shall  
6 be considered as "HIGHLY CONFIDENTIAL," and shall be treated as such  
7 pursuant to the terms of this Order. Thereafter, upon selection of specified  
8 materials for copying by the inspecting party, the producing party shall, within a  
9 reasonable time prior to producing those materials to the inspecting party, mark the  
10 copies of those materials that contain Confidential Information with the appropriate  
11 confidentiality marking.

12 6. Whenever a deposition taken on behalf of any party involves a  
13 disclosure of Confidential Information of any party:

- 14 a. said deposition or portions thereof shall be designated as  
15 containing Confidential Information subject to the provisions of  
16 this Order; such designation shall be made on the record  
17 whenever possible, but a party may designate portions of  
18 depositions as containing Confidential Information after  
19 transcription of the proceedings; a party shall have until twenty  
20 (20) days after receipt of the deposition transcript to inform the  
21 other party or parties to these Actions of the portions of the  
22 transcript designated "CONFIDENTIAL" or "HIGHLY  
23 CONFIDENTIAL;"
- 24 b. the producing party shall have the right to exclude from  
25 attendance at said deposition, during such time as the  
26 Confidential Information is to be disclosed, any person other  
27 than the deponent, counsel (including their staff and associates),  
28

1 the court reporter, and the person(s) agreed upon pursuant to  
2 Paragraph 8 below; and

3 c. the originals of said deposition transcripts and all copies thereof  
4 shall bear the legend "CONFIDENTIAL" or "HIGHLY  
5 CONFIDENTIAL" as appropriate, and the original or any copy  
6 ultimately presented to a court for filing shall not be filed unless  
7 it can be accomplished under seal, identified as being subject to  
8 this Order, and protected from being opened except by order of  
9 this Court.

10 7. All Confidential Information designated as "CONFIDENTIAL" or  
11 "HIGHLY CONFIDENTIAL" shall not be disclosed by the receiving party to  
12 anyone other than those persons designated herein and shall be handled in the  
13 manner set forth below and, in any event, shall not be used for any purpose other  
14 than in connection with these Actions, unless and until such designation is removed  
15 either by agreement of the parties, or by order of the Court.

16 8. Information designated "HIGHLY CONFIDENTIAL" shall be viewed  
17 only by Counsel (as defined in Paragraph 3) of the receiving party, and by  
18 independent experts under the conditions set forth in this Paragraph. The right of  
19 any independent expert to receive any Confidential Information shall be subject to  
20 the advance approval of such expert by the producing party or by permission of the  
21 Court. The party seeking approval of an independent expert shall provide the  
22 producing party with the name and curriculum vitae of the proposed independent  
23 expert, and an executed copy of the form attached hereto as Exhibit A, in advance  
24 of providing any Confidential Information of the producing party to the expert.  
25 Any objection by the producing party to an independent expert receiving  
26 Confidential Information must be made in writing within ten (10) days following  
27 receipt of the identification of the proposed expert. Confidential Information may  
28 be disclosed to an independent expert if the ten (10) day period has passed and no

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

1 objection has been made. The approval of independent experts shall not be  
2 unreasonably withheld.

3 9. Information designated "CONFIDENTIAL" shall be viewed only by  
4 Counsel (as defined in Paragraph 3) of the receiving party, by independent experts  
5 (pursuant to the terms of Paragraph 8), up to two attorneys to-be-designated at a  
6 later date for Genentech, Inc., up to two attorneys to-be-designated at a later date  
7 for City of Hope, William Han and Andrea Lockenour for GlaxoSmithKline and  
8 Glaxo Group Limited, up to two attorneys to-be-designated at a later date for  
9 Human Genome Sciences, Inc., and by the additional individuals listed below,  
10 provided each such individual has read this Order in advance of disclosure and has  
11 agreed in writing to be bound by its terms:

- 12 a. Executives who are required to participate in policy decisions  
13 with reference to these actions;
- 14 b. Technical personnel of the parties with whom Counsel for the  
15 parties find it necessary to consult, in the discretion of such  
16 Counsel, in preparation for trial of these actions; and
- 17 c. Stenographic and clerical employees associated with the  
18 individuals identified above.

19 10. With respect to material designated "CONFIDENTIAL" or "HIGHLY  
20 CONFIDENTIAL" any person indicated on the face of the document to be its  
21 originator, author or a recipient of a copy thereof, may be shown the same.

22 11. A document that contains or reveals Confidential Information may be  
23 copied by an independent commercial copying service, and an exhibit based upon  
24 such a document may be prepared by an independent printer or illustrator.

25 12. Confidential Information may be disclosed to official court personnel,  
26 stenographic reporters, videographers and their respective assistants who are  
27 engaged in such proceedings as are necessary for the preparation and trial of these  
28 Actions.

1           13. All information which has been designated as "CONFIDENTIAL" or  
2 "HIGHLY CONFIDENTIAL" by the producing party, and any and all  
3 reproductions thereof, shall be retained in the custody of the counsel for the  
4 receiving party identified in Paragraph 3, except that independent experts  
5 authorized to view such information under the terms of this Order may retain  
6 custody of copies such as are necessary for their participation in these Actions.

7           14. Before any materials produced in discovery, answers to  
8 interrogatories, responses to requests for admissions, deposition transcripts, or other  
9 documents which are designated as Confidential Information are filed with the  
10 Court for any purpose, the party seeking to file such material shall seek permission  
11 of the Court to file said material under seal. The parties will follow and abide by  
12 applicable law, including relevant local rules, with respect to filing documents  
13 under seal in this Court.

14           15. Any party may reasonably request, in writing, that a party filing or  
15 serving a paper in these actions, such as an expert report, dispositive motion,  
16 discovery motion, or similar paper, that is marked as CONFIDENTIAL and/or  
17 HIGHLY CONFIDENTIAL shall produce to the other side a redacted copy of such  
18 paper, removing the Confidential Information, for use solely for the purposes of  
19 these litigations. Such redacted copy shall be provided within five (5) calendar  
20 days of such request or otherwise at a date agreed upon by the parties.

21           16. At any stage of these proceedings, any party may object to a  
22 designation of specific materials as Confidential Information. The party objecting  
23 to confidentiality shall notify, in writing, counsel for the designating party of the  
24 objected-to materials and the grounds for the objection. In accordance with  
25 L.R. 37-1, the parties shall meet and confer in an attempt to resolve their dispute  
26 without involving the Court. If the parties are unable to resolve their dispute on  
27 their own, they may seek the Court's involvement pursuant to L.R. 37-2. The  
28 materials at issue shall be treated as Confidential Information, as designated by the

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

1 designating party, until the Court has ruled on the matter or the matter has been  
2 otherwise resolved.

3 17. All Confidential Information shall be held in confidence by those  
4 inspecting or receiving it, and shall be used only for purposes of these Actions.  
5 Counsel for each party, and each person receiving Confidential Information shall  
6 take reasonable precautions to prevent the unauthorized or inadvertent disclosure of  
7 such information. If Confidential Information is disclosed to any person other than  
8 a person authorized by this Order, the party responsible for the unauthorized  
9 disclosure must immediately bring all pertinent facts relating to the unauthorized  
10 disclosure to the attention of the other parties and, without prejudice to any rights  
11 and remedies of the other parties, make every effort to prevent further disclosure by  
12 the party and by the person(s) receiving the unauthorized disclosure.

13 18. No party shall be responsible to another party for disclosure of  
14 Confidential Information under this Order if the information in question is not  
15 labeled or otherwise identified as such in accordance with this Order.

16 19. If a party, through inadvertence, produces any Confidential  
17 Information without labeling or marking or otherwise designating it as such in  
18 accordance with this Order, the designating party may give written notice to the  
19 receiving party that the document or thing produced is deemed Confidential  
20 Information, and that the document or thing produced should be treated as such in  
21 accordance with that designation under this Order. The receiving party must treat  
22 the materials as confidential, once the designating party so notifies the receiving  
23 party. If the receiving party has disclosed the materials before receiving the  
24 designation, the receiving party must notify the designating party in writing of each  
25 such disclosure. Counsel for the parties shall agree on a mutually acceptable  
26 manner of labeling or marking the inadvertently produced materials such as  
27 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."

28



1           20. Nothing herein shall prejudice the right of any party to object to the  
2 production of any discovery material on the grounds that the material is protected as  
3 privileged or as attorney work product. An inadvertent production of any document  
4 that a producing party believes is immune from discovery pursuant to any attorney-  
5 client privilege, attorney work product immunity or any other privilege or immunity  
6 from production, shall not be deemed a waiver. The producing party may give  
7 written notice to all receiving parties that the document or information inadvertently  
8 produced is privileged or otherwise protected. Within ten (10) days of receipt of  
9 such written notice, all receiving parties shall immediately comply with Federal  
10 Rule of Civil Procedure 26(b)(5)(B) by returning or destroying the original and all  
11 copies of the information, making their best efforts to destroy those portions of  
12 summaries or notes pertaining to the information identified as privileged and taking  
13 reasonable steps to retrieve the information if the party disclosed it before being  
14 notified except, however, that a party seeking to challenge the claim of privilege or  
15 protection may retain a single copy of the disputed information solely for the  
16 purpose of making that challenge. If the Court denies the challenge, the party  
17 making the challenge has ten (10) days from receipt of the Order denying the  
18 challenge to comply with Federal Rule of Civil Procedure 26(b)(5)(B) by returning  
19 or destroying the copy of the disputed information retained for the purpose of  
20 making the challenge. If a receiving party wishes to challenge the claim of  
21 privilege or protection, no later than twenty (20) days from receiving the notice, it  
22 must initiate the process to move pursuant to Local Rule 37 to present the  
23 information, under seal, to the Court for a determination of the claim. The receiving  
24 party shall not rely upon the fact or circumstances of the production of the  
25 information in challenging the claim of privilege or protection. No person or party  
26 shall incur any liability hereunder for any disclosure or filing of inadvertently  
27 disclosed documents when the disclosure occurred before receipt of notice of the  
28 inadvertent disclosure.

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)



1           21. Nothing in this Order shall bar counsel from rendering advice to their  
2 clients with respect to these Actions and, in the course thereof, relying upon any  
3 information designated as Confidential Information, provided that the contents of  
4 the information shall not be disclosed.

5           22. This Order shall be without prejudice to the right of any party to  
6 oppose production of any information for lack of relevance or any other ground  
7 other than the mere presence of Confidential Information. The existence of this  
8 Order shall not be used by either party as a basis for discovery that is otherwise not  
9 proper under the Federal Rules of Civil Procedure.

10           23. Nothing herein shall be construed to prevent disclosure of Confidential  
11 Information if such disclosure is required by law or by order of the Court.

12           24. Drafts of expert reports and notes or outlines for draft reports shall not  
13 be discoverable by any party and do not need to be identified on a privilege log.  
14 Communications between experts and counsel relating to the preparation of expert  
15 reports shall not be discoverable and do not need to be identified on a privilege log,  
16 except that any facts and/or documents provided to an expert, whether from counsel  
17 or any other source, and the source of those documents and/or information are  
18 discoverable. The materials, communications and other information exempt from  
19 discovery under the foregoing sentences shall be treated as protected by the  
20 attorney-client privilege and/or attorney work product doctrine.

21           25. Upon final termination of these Actions, including any and all appeals,  
22 counsel for each party shall, upon request of the producing party, return all  
23 Confidential Information (regardless of its format) to the party that produced the  
24 information, including any copies, excerpts, and summaries thereof, or shall destroy  
25 same at the option of the receiving party, and shall purge all such information from  
26 all machine-readable media on which it resides. Within sixty (60) days of the  
27 termination of these Actions, the receiving party shall certify in writing to the  
28 producing party that all confidential information, regardless of format or location,

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

1 has been destroyed. Notwithstanding the foregoing, counsel for each party may  
2 retain all pleadings, briefs, memoranda, motions, and other documents filed with  
3 the Court that refer to or incorporate Confidential Information, and will continue to  
4 be bound by this Order with respect to all such retained information. Further,  
5 attorney work product materials that contain Confidential Information need not be  
6 destroyed, but, if they are not destroyed, the person in possession of the attorney  
7 work product will continue to be bound by this Order with respect to all such  
8 retained information.

9 26. The restrictions and obligations set forth herein shall not apply to any  
10 information that: (a) the parties agree should not be designated Confidential  
11 Information; (b) the parties agree, or the Court rules, is already public knowledge;  
12 (c) the parties agree, or the Court rules, has become public knowledge other than as  
13 a result of disclosure by the receiving party, its employees, or its agents in violation  
14 of this Order; or (d) has come or shall come into the receiving party's legitimate  
15 knowledge independently of the production by the designating party. Prior  
16 knowledge must be established by pre-production documentation.

17 27. The restrictions and obligations herein shall not be deemed to prohibit  
18 discussions of any Confidential Information with anyone if that person already has  
19 or obtains legitimate possession thereof.

20 28. Confidential Information disclosed pursuant to this Order shall be used  
21 by a receiving party solely for the purposes of these Actions. Confidential  
22 Information disclosed pursuant to this Order shall not be used for any business or  
23 competitive purposes. It shall be the duty of each party and each individual having  
24 notice of this Order to comply with its terms from the time of such notice.

25 29. In the event that counsel for a party deems it necessary to disclose any  
26 Confidential Information to any person not contemplated in the preceding  
27 Paragraphs, said counsel shall make a request to counsel for the producing party in  
28 writing or on the record in a deposition or proceeding before the Court of the

[PROPOSED] STIPULATED PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

1 Confidential Information sought to be disclosed, and shall attempt to reach  
2 agreement regarding such disclosure. Nothing in this Order shall prevent disclosure  
3 of such Confidential Information if the producing party consents, or if the Court,  
4 after notice to all parties, orders such disclosure. If agreement cannot be reached,  
5 the party seeking to make the disclosure shall move the Court, pursuant to Local  
6 Rule 37, to rule as to whether such disclosure may be made and whether any  
7 restrictions or limitations should be placed on such disclosure. No disclosure shall  
8 be made until such motion is decided in favor of the movant.

9 30. In the event that a new party is added, substituted or brought in, this  
10 Order will be binding on and inure to the benefit of the new party, subject to the  
11 right of the new party to seek relief from or modification of this Order.

12 31. Non-parties who produce information in these Actions may avail  
13 themselves of the provisions of this Order by agreeing to be bound by its terms.

14 32. In the event that a producing party's Confidential Information is  
15 sought from a receiving party by any person not a party to any of these Actions, by  
16 subpoena, by service with any legal process, by order or otherwise, prompt written  
17 notice shall be given to the party who produced the Confidential Information. Such  
18 notice shall include a copy of such subpoena, legal process or order. The producing  
19 party shall have ten (10) days from receipt of notice to object. Nothing in this  
20 Order shall be construed as authorizing a party to disobey a lawful subpoena issued  
21 in another action. Nothing in this Order shall be construed as requiring anyone  
22 covered by this Order to contest a subpoena or other process, to appeal any order  
23 requiring production of Confidential Information covered by this Order or to  
24 subject itself to penalties for non-compliance with any subpoena, legal process or  
25 order. Any persons seeking such Confidential Information who take action to  
26 enforce such subpoena or other legal process shall be apprised of this Order.

27 33. Transmission by facsimile and/or e-mail is acceptable for all  
28 notification purposes herein.

1           34. This Order may be modified by agreement of the parties, subject to  
2 approval by the Court.

3           The Court may modify the terms and conditions of this Order for good  
4 cause, or in the interest of justice, or on its own order at any time in these  
5 proceedings. The parties prefer that the Court provide them with notice of the  
6 Court's intent to modify this Order and the content of those modifications, prior to  
7 entry of such an order.

8  
9 DATED: May 15, 2012

**DURIE TANGRI LLP**

10  
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12 Daralyn J. Durie

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16 Kenneth A. Gallo

17 Attorneys for GENENTECH, INC. and  
18 CITY OF HOPE

19 **MAYER BROWN LLP**

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21 Lisa M. Ferri

22 Attorneys for GLAXO GROUP LIMITED  
23 and GLAXOSMITHKLINE LLC

24 **SIMPSON THACHER & BARTLETT**  
25 **LLP**

26 By: /s/ Henry B. Gutman  
27 Henry B. Gutman

Attorneys for HUMAN GENOME  
SCIENCES, INC.

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[PROPOSED] STIPULATED PROTECTIVE ORDER  
Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

**EXHIBIT A**

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14 Attorneys for GENENTECH, INC. and CITY OF  
15 HOPE

16 *COUNSEL CONTINUED ON NEXT PAGE*

17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA**  
19 **WESTERN DIVISION**  
20

21 **GENENTECH, INC. and CITY OF**  
22 **HOPE,**

23 **Plaintiffs,**

24 **v.**

25 **GLAXO GROUP LIMITED,**  
26 **GLAXOSMITHKLINE LLC, and**  
27 **HUMAN GENOME SCIENCES, INC.,**

28 **Defendants.**

Case No. 11-CV-03065 MRP (JEMx)

**"EXHIBIT A" TO STIPULATED  
PROTECTIVE ORDER;**

**AGREEMENT TO BE BOUND BY  
PROTECTIVE ORDER**

Judge: Hon. Mariana R. Pfaelzer  
Ctrm: 12



1 HUMAN GENOME SCIENCES, INC.,

2 Plaintiff,

3 v.

4 GENENTECH, INC. and CITY OF  
5 HOPE,

6 Defendants.

Case No. 11-CV-06519 MRP (JEMx)

7 HUMAN GENOME SCIENCES, INC.,

8 Plaintiff,

9 v.

10 GENENTECH, INC., and CITY OF  
11 HOPE,

12 Defendants.

Case No. 11-CV-06594 MRP (JEMx)

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14 BARTLETT LLP**

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LIMITED and  
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AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

Case Nos. 11-CV-03065, 11-CV-06519, 11-CV-06594 MRP (JEMx)

1 I, \_\_\_\_\_, declare and say that:

2 1. I am employed as

3 \_\_\_\_\_ by

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_

7 2. I have read the Protective Order entered in the above-captioned matters and  
8 have received a copy of the Protective Order.

9 3. I promise that I will use any and all "CONFIDENTIAL" or "HIGHLY  
10 CONFIDENTIAL" information, as defined in the Protective Order, given to  
11 me only in a manner authorized by the Protective Order, and only to assist  
12 counsel in the litigation of these matters.

13 4. I promise that I will not disclose or discuss such "CONFIDENTIAL" or  
14 "HIGHLY CONFIDENTIAL" information with anyone other than the  
15 persons described in Paragraphs 3, 8 and 9 of the Protective Order.

16 5. I acknowledge that, by signing this agreement, I am subjecting myself to the  
17 jurisdiction of the United States District Court for the Central District of  
18 California with respect to enforcement of the Protective Order.

19 6. I understand that any disclosure or use of "CONFIDENTIAL" or "HIGHLY  
20 CONFIDENTIAL" information in any manner contrary to the provisions of  
21 the Protective Order may subject me to sanctions for contempt of court.

22 I declare under penalty of perjury that the foregoing is true and correct.

23 Date: \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I certify that all counsel of record is being served on May 15, 2012 with a copy of this document via the Court's CM/ECF system.

/s/ Daralyn J. Durie  
DARALYN J. DURIE